



PATENT
Docket No. 235.00440101

#7
DMR
10-9-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Travis et al.) Group Art Unit: 1652
Serial No.: 10/008,355) Examiner: S. Swope
Filed: November 8, 2001)
For: DIPEPTIDYLPEPTIDASES AND METHODS OF USE

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RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington D.C. 20231

Dear Sir:

In response to the Restriction Requirement mailed August 29, 2002, Applicants elect, with traverse, Group II (claims 10-13), drawn to a dipeptidylpeptidase DNA. Applicants reserve the right to pursue examination of the non-elected claims in continuation or divisional applications.

Applicants respectfully request reconsideration and withdrawal or modification of the restriction requirement. It is respectfully submitted that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner. That is, all the claims are so interrelated that a search of one group of claims will reveal art to the others.

Were restriction to be effected between the claims of Groups I-VI, a separate examination of the claims in these six groups would require substantial duplication of work on the part of the U.S. Patent and Trademark Office. Even though some additional consideration would be necessary, the scope of analysis of novelty of all the claims of Groups I-VI would have to be as rigorous as when only the claims of Group II, for example, were being considered by themselves. Clearly, this duplication of effort would not be warranted where these claims of different categories are so interrelated. Further, Applicants submit that for restriction to be effected between the claims in Groups I-VI, it would place an undue burden by requiring

Response to Restriction Requirement

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payment of five separate filing fees for examination of the nonelected claims, as well as the added costs associated with prosecuting six applications and maintaining six patents.

In the event the Examiner maintains the restriction requirement, rejoinder of the non-elected claims is respectfully requested upon notice of allowance of any of the elected product claims. *See*, 1184 O.G. 86, citing *In re Ochiai*, 37 USPQ2nd 1127 (Fed. Cir. 1995), and *In re Brouwer*, 37 USPQ2d 1663 (Fed. Cir. 1996).

The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number if prosecution of this application may be assisted thereby.

CERTIFICATE UNDER 37 C.F.R. 1.10:

The undersigned hereby certifies that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated below and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Loren E. Albin
Loren E. Albin

"Express Mail" mailing label number:
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Date of Deposit: 30 September 2002

Date

September 30, 2002

Respectfully submitted for

Travis et al.

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